

From: Igor Litvak <Igor@LitvakLawNY.com>
Sent: Tuesday, May 31, 2022 3:48:42 PM
To: Paul Weeks <PWeeks@KSLAW.com>; Laura Harris <Iharris@kslaw.com>; Luke Roniger <LRoniger@KSLAW.com>
Cc: Andrew Michaelson <amichaelson@kslaw.com>; Sumon Dantiki <sdantiki@kslaw.com>; Matthew Bush <mbush@kslaw.com>
Subject: Re: Rule 26(f) Report

CAUTION: MAIL FROM OUTSIDE THE FIRM

I am available any time, send a calendar

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From: Paul Weeks <PWeeks@KSLAW.com>
Sent: Tuesday, May 31, 2022 3:47:25 PM
To: Igor Litvak <Igor@LitvakLawNY.com>; Laura Harris <Iharris@kslaw.com>; Luke Roniger <LRoniger@KSLAW.com>
Cc: Andrew Michaelson <amichaelson@kslaw.com>; Sumon Dantiki <sdantiki@kslaw.com>; Matthew Bush <mbush@kslaw.com>
Subject: RE: Rule 26(f) Report

Thank you, Igor. We are generally fine with your first and last proposed changes. We have some questions about your proposed changes to Sections C and E and think at this stage a quick phone call to discuss is the best path forward. Are you available now (or at some point in the next hour)? We can send along a calendar.

Separately, for planning purposes we'd like to discuss whether your clients intend to come to New York for in-person depositions, and if not, where they propose to make themselves available for in-person depositions.

Thanks,
Paul

Paul Weeks
Senior Associate

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Subject: Re: Rule 26(f) Report

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See attached.

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From: Laura Harris <Iharris@kslaw.com>
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Subject: RE: Rule 26(f) Report

Thank you, Igor. Please send across the changes you wish to make. We are having trouble understanding the highlighting in the document attached to your email.

Laura Harris

Partner

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Subject: Re: Rule 26(f) Report

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

GOOGLE LLC,

Plaintiff,

v.

Civil Action No. 1:21-cv-10260-DLC

DMITRY STAROVIKOV;

ALEXANDER FILIPPOV;

Does 1-15,

Defendants.

JOINT RULE 26(F) REPORT

Plaintiff Google LLC (“Google”) and Defendants Dmitry Starovikov and Alexander Filippov (“Defendants,” together with Google, the “parties”) jointly submit the following Rule 26(f) Report and Discovery Plan.

The parties conferred telephonically on May 6, 18, and 27, 2022. As directed by the Court, the parties conferred about the feasibility of “settlement, whether the defendants are willing to consent to the entry of a permanent injunction, and each of the other subjects to be considered at Fed. R. Civ. P. 16 conference,” and prepared a “detailed written proposed schedule for any motions and discovery” pursuant to Fed. R. Civ. P. 26(f). ECF 63. The parties respectfully submit the following proposed discovery plan along with the parties’ proposed case schedule enclosed as Exhibit A.

A. Initial Disclosures – Rule 26(f)(3)(A)

The parties will serve initial disclosures pursuant to Rule 26(a) no later than June 10, 2022.

The parties agree that the initial disclosures will take the form prescribed in Rule 26(a), and that Defendants' initial disclosures will include each individual and entity involved in Defendants' business activities described in the Complaint (ECF 5) and Defendants' Declarations (ECF 47-2, 47-3), including for each the name, current contact information, and a description of the individual's or entity's role(s) in Defendants' business activities.

B. Subjects of Discovery and Discovery Completion – Rule 26(f)(3)(B)

1. Subjects of Discovery

The parties agree that they should "conduct expeditious and targeted discovery" to resolve the case as efficiently as possible. *See* ECF 62 at 32. The parties agree that fact discovery in this action should be phased. The first phase of fact discovery will focus on identifying the Doe Defendants and their roles in Defendants' business activities described in the Complaint and Defendants' Declarations. Within five business days of Defendants' initial disclosures, Google will serve targeted discovery requests for the purpose of obtaining any additional information necessary to amend the Complaint to include any additional named defendants. If no such individuals are identified in this first phase of fact discovery, Google intends to renew its motion for default judgment and a permanent injunction against the Doe Defendants. Defendants agree not to oppose any such motion.

Commented [IL1]: Lets take this out.

Once this first phase of discovery is complete, including the resolution of any disputes regarding such discovery, the parties anticipate additional, targeted discovery regarding the parties' respective claims and defenses.

2. Fact Discovery

The parties' proposed case schedule, including the deadlines for fact discovery, is enclosed as Exhibit A.

3. Expert Discovery

The parties' proposed case schedule, including the deadlines for expert discovery, is enclosed as Exhibit A.

C. Disclosure, Discovery, or Preservation of ESI – Rule 26(f)(3)(C)

The parties anticipate that the scope of discovery will encompass Electronically Stored Information ("ESI"). The parties will request ESI in the form or forms that facilitate efficient review of ESI. Google also anticipates that it will request to inspect Defendants' computers and other devices over which the Defendants have actual and physical control and possession, and which were used in their business practices described in the Complaint and Defendants' declarations, and. Similarly, Defendants reserve their rights to inspect Plaintiff's computers and other devices utilized or used in the investigation of allegations described in the Complaint and Plaintiff's declarations. Reciprocally, Defendants request that the Court order Plaintiff to preserve such computers and/or devices for production in this litigation.

Commented [IL2]: This is what we had in the previous version, lets keep it.

D. Privilege – Rule 26(f)(3)(D)

The parties agree that they will serve privilege logs in accordance with the guidelines set forth in Local Civil Rule 26.2 no later than 45 days after the production from which the document was withheld, unless otherwise agreed. The parties further agree that privileged or otherwise protected communications with outside counsel after the date of the respective party's first appearance in this action need not be logged. The parties also agree that they have reserved all rights to challenge any privilege claims, whether described on privilege logs or otherwise.

E. Limitations on Discovery – Rule 26(f)(3)(E)

The parties agree that the first phase of fact discovery will be limited as set forth herein.

The parties reserve their respective rights to meet and confer regarding the scope of discovery to commence after the conclusion of the first phase of fact discovery, and prior to serving discovery requests beyond those contemplated by the first phase of fact discovery. This paragraph will not limit in any way Defendants right to discovery concerning Plaintiff's investigation of the Defendants, and any matters and issues related to the same.

Commented [IL3]: I added this language, lets keep it.

F. Other Orders That the Court Should Issue – Rule 26(f)(3)(F)

The parties will do their best to present a stipulated protective order to the Court. The parties agree that neither side should exchange confidential documents under Rule 26(a)(1)(A)(ii) until a protective order is entered in this case.

Commented [IL4]: I added this language, lets keep it.

G. Other Matters

1. Settlement

The parties discussed settlement and “whether the defendants are willing to consent to the entry of a permanent injunction.” ECF 63. Defendants have declined to consent to any permanent injunction.

2. Consent to Magistrate Judge

The parties do not consent to proceed before a magistrate judge.

3. Joinder of Parties and Amendment of Pleadings

Google may amend its Complaint to add named defendants if discovery identifies additional individuals. The parties propose that the deadline for amendments to the pleadings as of right be thirty (30) days from the completion of the first phase of fact discovery, including the resolution of any disputes regarding such discovery. Google reserves all of its rights to seek leave to amend the Complaint.

4. Service of Pleadings and Discovery

The parties agree that as to all parties who have appeared in this action, all papers and discovery material not filed with the Court via CM/ECF shall be served via email and/or FTP on counsel of record for each party, except to the extent that electronic service is not practically available for any particular discovery material, in which case service shall be made to counsel of record for the opposing party(ies) at the following locations:

For Google:

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For Defendants:

Igor Litvak
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5. Pretrial Submissions

The parties jointly request that pretrial matters, including the deadline for witness lists and other pretrial submissions, be deferred until after the Court's resolution of summary judgment motions.

DATED: May 10, 2022

Respectfully submitted,

/s/ SIGNATURE
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Counsel for Defendants

EXHIBIT A
PROPOSED SCHEDULE

Event	Proposed Deadline
Initial Pretrial Conference	June 1, 2022
Initial Disclosures Served	June 10, 2022
Google Serves Discovery Requests for the First Phase of Fact Discovery	June 17, 2022
Remaining Fact Discovery Commences	Immediately following completion of the first phase of fact discovery
Deadline for Amending Pleadings as of Right	30 days following completion of the first phase of fact discovery
Close of Fact Discovery	October 3, 2022
Expert Reports from Parties Bearing the Burden on an Issue	November 4, 2022
Rebuttal Expert Reports	December 9, 2022
Reply Expert Reports	January 9, 2023
Motion(s) for Summary Judgment	February 10, 2023, <u>or earlier by consent of the parties or with the Court's leave</u>
Opposition(s) to Motion(s) for Summary Judgment	March 13, 2023
Reply(ies) in Support of Motion(s) for Summary Judgment	April 3, 2023